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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/082,831	02/25/2002	Rudolf Ritter	34359	1054
116	7590	01/10/2006	EXAMINER	
PEARNE & GORDON LLP			FOX, BRYAN J	
1801 EAST 9TH STREET				
SUITE 1200			ART UNIT	PAPER NUMBER
CLEVELAND, OH 44114-3108			2686	

DATE MAILED: 01/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/082,831	RITTER, RUDOLF	
	Examiner Bryan J. Fox	Art Unit 2686	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 03 October 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,2,19-31,40,43,47 and 48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,2,19-31,40,43,47 and 48 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Election/Restrictions***

Applicant's election without traverse of Group IV in the reply filed on October 3, 2005 is acknowledged.

***Claim Objections***

Claim 1 is objected to because of the following informalities: the limitation "the offer" has insufficient antecedent basis. Appropriate correction is required.

Claim 1 is objected to because of the following informalities: the limitation "the user" has insufficient antecedent basis. Appropriate correction is required.

Claim 1 is objected to because of the following informalities: the limitation "the provider" has insufficient antecedent basis. Appropriate correction is required.

Claim 19 is objected to because of the following informalities: the limitation "the user" has insufficient antecedent basis. Appropriate correction is required.

Claim 22 is objected to because of the following informalities: the limitation "said chip card" has insufficient antecedent basis. Appropriate correction is required.

Claim 24 is objected to because of the following informalities: the limitation "the chip card" has insufficient antecedent basis. Appropriate correction is required.

Claim 24 is objected to because of the following informalities: the limitation "the personalization of the chip card" has insufficient antecedent basis. Appropriate correction is required.

Claim 26 is objected to because of the following informalities: the limitation "the product" has insufficient antecedent basis. Appropriate correction is required.

Claim 28 is objected to because of the following informalities: the limitation "the ordered quantity" has insufficient antecedent basis. Appropriate correction is required.

Claim 29 is objected to because of the following informalities: the limitation "the billing method" has insufficient antecedent basis. Appropriate correction is required.

Claim 30 is objected to because of the following informalities: the limitation "the delivery method" has insufficient antecedent basis. Appropriate correction is required.

Claim 31 is objected to because of the following informalities: the limitation "the delivery address" has insufficient antecedent basis. Appropriate correction is required.

Claim 32 is objected to because of the following informalities: the limitation "the delivery address" has insufficient antecedent basis. Appropriate correction is required.

Claim 40 is objected to because of the following informalities: the limitation "the operator" has insufficient antecedent basis. Appropriate correction is required.

Claim 40 is objected to because of the following informalities: the limitation "said operator" has insufficient antecedent basis. Appropriate correction is required.

Claim 47 is objected to because of the following informalities: the limitation "said operator" has insufficient antecedent basis. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1, 2, 20, 21, 26-29, 31, 32, 40 and 47 are rejected under 35 U.S.C. 102(a) as being anticipated by Ritter (WO 99/35771, English translation for Australian Patent Office used).

Regarding claim 1, Ritter discloses a receiving system has receiving means for receiving a media program sent out over a broadcast channel and program accompanying data, and reproduction means for playing the received media program back to the user (see page 11, lines 4-8), which reads on the claimed, "order method, comprising the following steps: reproduction of the offer of a provider with electronic reproduction means of a personal terminal." If the mobile apparatus is switched on, the applet is directly displayed on the display and the user may order products (see page 11, lines 10-18), which reads on the claimed, "selection of the offer by the user, execution in said personal terminal of an order program linked to the selected offer, with which order data can be entered." When a command is entered by a user, a message is prepared corresponding to the entered command, the message including at least one data field from the digital data received and an identification of the user determined from the identification card, and the prepared message is sent over a mobile radio network (see page 2a, lines 11-26), which reads on the claimed, "linking of said order data with user identification data stored in a personal identification module, transmission of an order message with said linked data to the provider."

Regarding claim 2, Ritter discloses a message is received by means of a telecommunications mobile device (see page 2a, lines 11-26), which reads on the

claimed, "said reproduced offer is transmitted by the provider over an electronic channel into said personal terminal."

Regarding claim 20, Ritter discloses identification data is obtained from the identification card (see page 2a, lines 11-26), which reads on the claimed, "said identification module is a chip card."

Regarding claim 21, Ritter discloses a user profile stored in the secured area of the SIM card (see column 7, lines 24-30), which reads on the claimed, "said identification data are stored in a secured area of the chip card."

Regarding claim 26, Ritter discloses that the java applet is received by the SIM card in the mobile apparatus, which carries out the interactive process with the user (see page 7, lines 1-9), which reads on the claimed, "order parameters are transmitted into said chip card, and wherein said order program is adapted with these parameters to the product to be ordered."

Regarding claim 27, Ritter discloses that the data fields may be signed in order to guarantee confidentiality (see page 9, lines 15-19), which reads on the claimed, "said transmitted parameters are signed electronically, so that the terminal can verify the integrity and authenticity of these parameters."

Regarding claim 28, Ritter discloses that the desired product quantity may be selected (see page 9, lines 12-13), which reads on the claimed, "said order data comprise the ordered quantity."

Regarding claim 29, Ritter discloses that the preferred mode of payment can be selected (see page 9, lines 12-13), which reads on the claimed, "said order data comprise the billing method."

Regarding claim 31, Ritter discloses the user identification includes at least the full name and address of the subscriber (see page 5, lines 20-31), which reads on the claimed, "said order data comprise the delivery address.

Regarding claim 32, Ritter disclose the subscriber data is in a subscriber database (see page 5, lines 20-31), which reads on the claimed, "said applet allows the selection of the delivery address from an available directory."

Regarding claim 40, Ritter discloses the order message is transmitted to the server, and the server combines the order number with user identification data from a subscriber database (see page 5, lines 20-31), which reads on the claimed, "said order message is first transmitted to the operator that has stored said identification data in said identification module, additional user identification data are read in a database managed by said operator, at least part of the contents of said order message is linked with said additional user identification data." Further, the data combined in the server are sent to the logistics center of the supplier (see page 6, lines 13-17), which reads on the claimed, "the linked data are forwarded on."

Regarding claim 47, Ritter discloses the connection between the server 13 and the logistics center 12 is wired (see figure 1), which reads on the claimed, "said linked data are transmitted over a fixed network to said operator."

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 19 and 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ritter in view of Baumann (US006104922A).

Regarding claim 19, Ritter fails to expressly disclose the identity of the user is verified on the basis of biometric parameters.

In a similar field of endeavor, Baumann discloses the use of biometric data to identify a user (see figure 6), which reads on the claimed, "the identity of the user is verified on the basis of biometric parameters."

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify Ritter with Baumann to include the above use of biometric data to identify a user in order to provide a better method to authenticate users that can never be lost or stolen as suggested by Baumann (see column 3, lines 20-25).

Regarding claim 22, the combination of Ritter and Baumann discloses a user identification means, preferably chip-card reading means, for identifying the user of the receiving system by means of an identification card (see Ritter page 6, lines 1-7) and the applet is received by the SIM card which carries out the interactive process with the user (see Ritter page 7, lines 1-9), which reads on the claimed, "said order program linked with the selected offer is executed by data processing means in said chip card."

Regarding claim 23, the combination of Ritter and Baumann discloses the applet is received by the SIM card which carries out the interactive process with the user (see Ritter page 7, lines 1-9), which reads on the claimed, "said order program is an applet."

Regarding claim 24, the combination of Ritter and Baumann discloses that the applet may be filed in a buffer on the SIM card (see Ritter page 11, lines 19-24), which reads on the claimed, "the applet is stored in the chip card during the personalization of the chip card."

Regarding claim 25, the combination of Ritter and Baumann discloses the applet is received over a broadcast channel (see Ritter page 11, lines 4-9), which reads on the claimed, "the applet is downloaded over a radio interface."

Claims 30, 43 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ritter in view of what was well known in the art (se MPEP 2144.03).

Regarding claim 30, Ritter discloses providing the deliver address, however, Ritter fails to expressly disclose the order data comprise the delivery method.

The examiner takes official notice that providing a delivery method with a delivery address was well known to a person of ordinary skill in the art at the time of the invention.

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify Ritter such that the delivery method is included with the order data in order to allow the user to select between multiple delivery methods without need for further contact.

Regarding claim 43, Ritter fails to expressly disclose the order message is transmitted to a provider address read in a provider address database.

The examiner takes official notice that using a provider address from a provider address database was well known in the art at the time of the invention.

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify Ritter to include the above selection of a provider address from a provider address database in order to allow a user to select from different providers.

Regarding claim 48, Ritter fails to expressly disclose a plurality of said liked data of a plurality of users are transmitted simultaneously to said provider.

The examiner takes official notice that transmitting a plurality of data from a plurality of users to a provider was well known at the time of the invention.

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify Ritter to include the above transmitted a plurality of data from a plurality of user to a provider in order to efficiently accommodate multiple users.

***Conclusion***

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryan J. Fox whose telephone number is (571) 272-7908. The examiner can normally be reached on Monday through Friday 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold can be reached on (571) 272-7905. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Bryan Fox  
January 5, 2006

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